IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16090 of 2004

Between:

Vemula Nageswara Rao, S/o. China Malakondaiah,
R/o. Chowtapalem Hamlet of Pethuru Village, Kondopi Mandal, Prakasam District.

..... PETITIONER

AND

1 The Superintendent of Police, Prakasam District.
2 The Circle Inspector of Police, Singarayakonda, Prakasam District.
3 The Sub-Inspector of Police, Tangutur Police Station, Tangutur.
4 The Sub-Inspector of Police, Kondepi Police Station, Prakasam District.
5 The Mandal Revenue Officer, Kondepi Mandal, Kondepi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ in the nature of mandamus or any appropriate writ or order declaring action of respondents 3 and 4 in interfering with my peaceful possession and enjoying of land in Sy.No.661 situated in Chowtapalem hamlet of Petluru Village of Kondepi Mandal, Prakasam District, without authority of law or following due process of law and declare the action of respondent 3 and 4 as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner :MR. KOTI REDDY IDAMAKANTI

Counsel for the Respondents : GP FOR HOME

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.16090 OF 2004

ORAL ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring the alleged action of the respondents 3 and 4 in interfering with the peaceful possession and enjoyment of the land in Sy.No.661 situated in Chowtapalem, h/o. Petluru village of Kondepi Mandal, Prakasam District without following due process of law as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that the petitioner and his family members are in possession of Ac.3-40 cents of land situated in Sy.No.661 in Chowtapalem, h/o.Kondapi Mandal, Prakasam District. While so, one Chereddi Chennaiah who was also granted a patta to an extent of Ac.5-88 cents situated in Sy.No.661 in Chowtapalem Village filed O.S.No.135 of 2000 on the file of the Court of the Principal Junior Civil Judge, Kandukur against the petitioner and other family members alleging that they are interfering with the peaceful possession and

enjoyment in respect of the land in his possession. The petitioner filed a written statement contesting the suit claim. However, an ex parte decree was passed on 19-02-2004. The petitioner filed an application under Order 9 Rule 13 of C.P.C. to set aside the ex parte decree and the same is pending. While the matter stood thus, on 28-08-2004 the respondents 3 and 4 Police Officials came to the land of the petitioner and threatened him with dire consequences if the cases pending are not withdrawn. The petitioner got issued a legal notice requesting the respondents not to interfere with the said disputes since the matter is pending before the competent Civil Court. In spite of the same, the respondents 3 and 4 have been interfering with the civil disputes and threatening the petitioner with dire consequences. Hence, this writ petition.

On behalf of the respondents 1 to 4, the Assistant Sub-Inspector of Police, Kondepi, Prakasam District filed a counter-affidavit denying all the allegations made by the petitioner and stating that on 10-08-2004 the Mandal Revenue Officer, Kondepi Mandal addressed a letter to the Station House Officer, Kondepi stating that Chereddy Chennaiah who is the decree-holder in O.S.No.135 of 2000 on the file of the Court of the Principal Junior Civil Judge, Kandukur, made a representation to the Mandal Revenue Officer requesting to extend police protection to enable him to enter into his land and therefore necessary action may be taken to prevent any clashes between the two groups while allowing the legitimate person to enter into his land in pursuance of the decree. However, so far, the said Chereddy Chennaiah has not approached the respondents seeking any protection. It is also stated that, in pursuance of the decree granted in his favour, when Chereddy Chennaiah along with his son and daughter-in-law went to the plaint schedule land on 11-09-2004 for the purpose of agricultural operations, the petitioner and his followers obstructed them armed with deadly weapons and outraged the modesty of the daughter-in-law of Chereddy Chennaiah, who is the decree-holder in O.S.No.135 of 2000. In this connection, on a report given by Chereddy Chennaiah, on the same day Crime No.78 of 2004 was registered under Sections 147, 148, 447 & 354 read with Section 149 of the Indian Penal Code against the writ petitioner and 19 others. On the same day, the wife of the petitioner gave a complaint against Chereddy Chennaiah and 79 others stating that they formed into an unlawful assembly came to her land, picked up a quarrel, beat her and threatened her with dire consequences. The said

complaint was registered as Cr.No.79 of 2004 under Sections 147, 148, 506 & 509 read with 149 of the Indian Penal Code. It is also specifically stated in the counter-affidavit that the respondents have nothing to do with the civil disputes between the petitioner and the said Chereddy Chennaiah and the allegations made by the petitioner as to the interference with the civil disputes is incorrect.

Having regard to the averments made in the counter-affidavit denying the alleged interference with the civil disputes and particularly keeping in view that on the basis of the complaint and counter-complaint made by the petitioner and the said Chereddy Chennaiah, two separate crimes have been registered which are pending investigation on the file of Kondepi P.S., no further adjudication is necessary in the writ petition.

Accordingly, recording the statement of the respondents 1 to 4 in their counter-affidavit, the Writ Petition is disposed of. No costs.

However, it is made clear that this shall not preclude the respondents to proceed with the investigation in Crime Nos.78 and 79 of 2004 on the file of Kondepi P.S., Prakasam District, and to take necessary further steps following due process of law.

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08th November, 2004.

Gbs

To

1 The Superintendent of Police, Prakasam District.
2 The Circle Inspector of Police, Singarayakonda, Prakasam District.
3 The Sub-Inspector of Police, Tangutur Police Station, Tangutur.
4 The Sub-Inspector of Police, Kondepi Police Station, Prakasam District.
5 The Mandal Revenue Officer, Kondepi Mandal, Kondepi.

6.2CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad (OUT).

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